

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
FINAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend Section 503
Title 14, California Code of Regulations
Re: Crop Damage and Nuisance Canada Geese

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| I. | Date of Initial Statement of Reasons: | November 7, 2007 |
| II. | Date of Pre-adoption Statement of Reasons: | January 10, 2008 |
| III. | Date of Final Statement of Reasons: | July 3, 2008 |
| IV. | Dates and Locations of Scheduled Hearings: | |
| | (a) Notice Hearing: | |
| | | Date: December 7, 2007 |
| | | Location: Sacramento |
| | (b) Discussion Hearing: | |
| | | Date: February 8, 2008 |
| | | Location: San Diego |
| | | Date: April 11, 2008 |
| | | Location: Bodega Bay |
| | | Date: May 9, 2008 |
| | | Location: Monterey |
| | (b) Adoption Hearing: | |
| | | Date: June 27, 2008 |
| | | Location: Upland |
| V. | Update: | |

At its June 27, 2008 meeting, the Commission adopted the Department recommendation to amend Section 503, Title 14.

VI. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting those considerations:

- (a) Description of Proposed Action by Public: Recommends the Commission to adopt the proposed regulation and/or supports the Department's recommendation.

Proposal Source: Kathryn Henrickson, Lake of the Pines Association, Inc. (letter 1/23/08)

Bob Weir, City of Davis Public Works Department (letter received 1/09/08)

Sue Carey, City of Newark (email 1/16/08)

John and Joan Fries (email 4/09/08)

Vija Lochridge (email 3/24/08)

Sue Carey (email 3/05/08)

Jack Smith, City of Mountain View (email 1/16/08)

East Bay Regional Park District (letters 1/17/08 and 3/26/08)

The Vineyard Club (letter 4/29/08)

Cathy Davis (email 4/29/08)

Doug Bell, East Bay Regional Park District (testimony 4/11/08)

Jack Smith, City of Mountain View (testimony 4/11/08)

Bob Scavullo (email 4/10/08)

Kent Lambert, East Bay Municipal Utility District (letter 1/25/08)

Peter Sagues (email 4/9/08)

Recommendation: Accept.

Analysis: Support noted.

- (b) Description of Proposed Action by Public: Proposes an egg salvage program operated by volunteers as an alternative to the Department's recommendation.

Proposal Source: County of Nevada Board of Supervisors (letter 4/08/08)

Recommendation: Reject.

Analysis: Under the Federal Orders related to nuisance Canada geese (50 CFR 21.49, 21.50 and 21.52) only certain management actions are permitted, and these do not include egg salvage (the collection of eggs from nests, artificial incubation, and release into the wild). The State cannot adopt regulations that permit egg salvage.

- (c) Description of Proposed Action by Public: Does not support Department's recommendation because will eliminate hunting opportunity and neglects value of wildlife viewing and hunting.

Proposal Source: California Waterfowl Association (letter 1/29/08)

Recommendation: Reject.

Analysis: Nuisance Canada geese are a problem most commonly in urban areas such as parks and golf courses. Hunting is not legal in urban environments. However, the implementation of the regulation is likely to reduce hunting opportunity in certain locales if the regulation is successful in its goal of reducing the resident Canada goose population to levels that are socially acceptable. As a proportion of statewide goose harvest however, the effect will be small. The regulation seeks to alleviate economic losses and public health and safety issues consistent with maintaining healthy populations to provide for their sport hunting and non-appropriative uses by restricting the Federal Orders to permit Department oversight. The regulation more aggressively addresses problems associated with resident Canada geese in the areas of the State where those problems are greatest, while seeking to minimize the effects of alleviating problems in traditional nesting areas or in areas that provide the greatest amount of sport hunting.

- (d) Description of Proposed Action by Public: Against harming the geese.

Proposal Source: Pat Turrigiano (email 4/05/08)

Recommendation: Reject.

Analysis: Fish and Game Code, Section 1801 includes mandates to "alleviate economic losses or public health or safety problems caused by wildlife to the people of the state either individually or collectively. Such resolution shall be in a manner designed to bring the problem within tolerable limits consistent with economic and public health considerations and the objectives stated in subdivisions (a), (b) and (c)." Accordingly, the regulation seeks to alleviate economic losses and public health and safety issues consistent with maintaining healthy populations to provide for their sport hunting and non-appropriative uses. The regulation more aggressively addresses problems associated with resident Canada geese in the areas of the State where those problems are greatest, while seeking to minimize the effects of alleviating problems in traditional nesting areas or in areas that provide the greatest amount of sport hunting.

- (e) Description of Proposed Action by Public: Does not want Canada geese exterminated in California.

Proposal Source: Peter Niebauer (email 4/05/08)

Recommendation: Reject.

Analysis: It is the Department's and Commission's policy to "encourage the preservation, conservation, and maintenance of wildlife resources under the jurisdiction and influence of the state" as well as "to alleviate economic losses or public health or safety problems caused by wildlife to the people of the state either individually or collectively" per Fish and Game Code, Section 1801. It is not the Commission's intent to eliminate Canada geese from the State. The regulation targets resident Canada geese in the areas of the State where nuisance goose problems (typically urban parks and golf courses) are the greatest, while seeking to minimize the effects of alleviating problems in traditional nesting areas and other rural environments.

- (f) Description of Proposed Action by Public: Opposes any restrictions or permitting process on the take resident nuisance goose nests and or eggs, especially at airports.

Proposal Source: Don McCormick (letter 1/21/08)

Recommendation: Reject.

Analysis: The regulation, consistent with Federal regulations, allows airports to control resident geese through: 1) trapping and relocation; 2) nest and egg destruction; 3) trapping and culling; or 4) other methods. Nests and eggs may be destroyed between March 1 and June 30 and other control methods may be used between April 1 and September 15. Airports only need a permit from the State when attempting to trap and relocate Canada geese. The regulation permits, without State oversight, the take of nests and eggs in counties with large urban centers that are not part of the historic distribution of nesting Canada geese in California; however, the regulation controls the take of nests and eggs from less urbanized areas, including the native range of the species, to reduce the effect of nuisance Canada goose control on natural populations and hunting opportunity.

- (g) Description of Proposed Action by Public: Opposes controls on Canada geese.

Proposal Source: Bob Baiocchi (email 1/30/08, 2/2/08, 4/20/08, 5/4/08)

Recommendation: Reject.

Analysis: It is the Department's and Commission's policy to "encourage the preservation, conservation, and maintenance of wildlife resources under the jurisdiction and influence of the state" as well as "to alleviate economic losses or public health or safety problems caused by wildlife to the people of the state either individually or collectively" per Fish and Game Code, Section 1801. It is not the Commission's intent to eliminate Canada geese from the State. The regulation targets resident Canada geese in the areas of the State where nuisance goose problems (typically urban parks and golf courses) are the greatest and where Canada geese did not historically occur year-round, while seeking to minimize the effects of alleviating problems in traditional nesting areas.

- (h) Description of Proposed Action by Public: Recommends a change that would remove geese out of urban environments without taking them.

Proposal Source: Walt Mansell, CA Rifle and Pistol Association (testimony 4/11/08)

Recommendation: Reject.

Analysis: Non-lethal discouragements, such as hazing, are available without special authorization. Trapping and relocation of resident Canada geese is allowed under the airport control order and the public health control order pursuant to subsections 503(b) and 503(d). Fish and Game Code, Section 1801 includes mandates to "alleviate economic losses or public health or safety problems caused by wildlife to the people of the state either individually or collectively. Such resolution shall be in a manner designed to bring the problem within tolerable limits consistent with economic and public health considerations and the objectives stated in subdivisions (a), (b) and (c)." Accordingly, the regulation seeks to alleviate economic losses and public health and safety issues consistent with maintaining healthy populations to provide for their sport hunting and non-appropriative uses. The regulation more aggressively addresses problems associated with resident Canada geese in the areas of the State where those problems are greatest, while seeking to minimize the effects of alleviating problems in traditional nesting areas or in areas that provide the greatest amount of sport hunting.

- (i) Description of Proposed Action by Public: Reduce effects of loss on hunting opportunity. Would like more options concerning egg collection and incubation and release in other areas.

Proposal Source: Bill Gaines, (testimony 6/27/08)

Recommendation: Reject.

Analysis: Fish and Game Code, Section 1801 includes mandates to “alleviate economic losses or public health or safety problems caused by wildlife to the people of the state either individually or collectively. Such resolution shall be in a manner designed to bring the problem within tolerable limits consistent with economic and public health considerations and the objectives stated in subdivisions (a), (b) and (c).” Accordingly, the regulation seeks to alleviate economic losses and public health and safety issues consistent with maintaining healthy populations to provide for their sport hunting and non-appropriative uses. The regulation more aggressively addresses problems associated with resident Canada geese in the areas of the State where those problems are greatest, while seeking to minimize the effects of alleviating problems in traditional nesting areas or in areas that provide the greatest amount of sport hunting. Under the Federal Orders related to nuisance Canada geese (50 CFR 21.49, 21.50 and 21.52) only certain management actions are permitted, and these do not include egg salvage (the collection of eggs from nests, artificial incubation, and release into the wild). The State cannot adopt regulations that permit egg salvage.

- (j) Description of Proposed Action by Public: Concerned about proposed language of classifying Canada geese as a “nuisance”.

Proposal Source: Henry Smith, (testimony 5/09/08)

Recommendation: Neutral.

Analysis: Fish and Game Code, Section 1801 includes mandates to “alleviate economic losses or public health or safety problems caused by wildlife to the people of the state either individually or collectively. Such resolution shall be in a manner designed to bring the problem within tolerable limits consistent with economic and public health considerations and the objectives stated in subdivisions (a), (b) and (c).” Accordingly, the regulation seeks to alleviate economic losses and public health and safety issues consistent with maintaining healthy populations to provide for their sport hunting and non-appropriative uses. The regulation more aggressively addresses problems associated with resident Canada geese in the areas of the State where those problems are greatest, while seeking

to minimize the effects of alleviating problems in traditional nesting areas or in areas that provide the greatest amount of sport hunting.

Updated Informative Digest/Policy Statement Overview

The proposed regulation change would add the control of nuisance Canada geese to the provisions addressing crop damage in Section 503 of Title 14, California Code of Regulations. Existing state regulations do not provide for the take of Canada goose nests or eggs, nor provide for their direct control except as authorized by the Commission under hunting regulations established in Section 502 of Title 14. The Federal government has preeminent authority to manage migratory birds pursuant to the Migratory Bird Treaty Act, and has adopted regulations permitting certain activities in certain parts of the country at specified times to alleviate the effects on humans by Canada geese. Changes in California regulations are necessary to implement these changes in federal rules.

In a Final Rule and Record of Decision issued August 10, 2006, the United States Fish and Wildlife Service issued a Depredation Order for resident Canada geese. This decision contained several parts, but only three portions affect the management of nuisance Canada geese in California. These are:

- 1) the Airport Control Order that provides airport managers the authority to control resident geese through: 1) trapping and relocation; 2) nest and egg destruction; 3) trapping and culling; or 4) other methods. Nests and eggs may be destroyed between March 1 and June 30 and other control methods may be used between April 1 and September 15;
- 2) the Nest and Egg Control Order that provides private landowners and managers of public lands the authority to take nests and destroy eggs when necessary to resolve injury to people, property, and/or agricultural crops. Nests and eggs may be destroyed between March 1 and June 30; and,
- 3) the Public Health Control Order that authorizes state wildlife agencies or their agents to conduct direct control activities whenever a direct threat to human health is acknowledged by any Federal, State or local public health agency. Nests and eggs may be destroyed between March 1 and June 30 and other control activities could occur between April 1 and August 31.

The proposed regulation would limit the Airport Control Order by requiring authorization by the Department before any trapping and relocation from airports could occur. The proposed regulation would also modify the Nest and Egg Control Order by requiring Department authorization for nest and egg control in all counties except Sonoma, Napa, Solano, Marin, Contra Costa, Alameda, San Francisco, San Mateo, Santa Clara, Santa Cruz, San Benito, Monterey, San Luis Obispo, Santa Barbara, Ventura, Los Angeles, Orange and San Diego. All other control actions identified under for the Pacific Flyway in the Depredation Order of Canada geese would be permitted in California.

Existing language in Section 503 is reformatted for clarity purposes.

At its June 27, 2008 meeting, the Commission adopted the proposed regulations.